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Attorneys for Hercules Incorporated

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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JOSEPH ALEXANDER ANDERSON, JR.  
and ARVA ANDERSON,

Plaintiffs,

vs.

ASBESTOS DEFENDANTS,

Defendant.

Civil Action File No. 09-cv-69122 (MDL 875)

**DEFENDANT HERCULES  
INCORPORATED'S MOTION FOR  
SUMMARY JUDGMENT**

(Transferor Court: U.S.D.C., Central District of  
Utah Case No. 2:06-cv-741)

Defendant Hercules Incorporated ("Hercules"), by and through its attorneys Parsons Behle & Latimer, hereby submits this Motion for Summary Judgment, pursuant to Fed. R. Civ. P., Rule 56.

As more fully set forth in Hercules' Memorandum in Support of this Motion, filed together herewith and incorporated herein, Hercules in this asbestos-injury matter has been sued solely as a premise operator and not as a product manufacturer. Accordingly, Plaintiffs must prove that it is more likely than not that Joseph Anderson was exposed to and injured by asbestos

for which Hercules is legally responsible. In the instant matter, Hercules is entitled to summary judgment because plaintiffs cannot show: (1) that Joseph Anderson was actually exposed to any asbestos while working at a Hercules premise; and (2) that Joseph Anderson was exposed to any asbestos for which Hercules is legally responsible.

In the case at bar, it is Plaintiffs' burden to show that (1) an unsafe condition existed at Hercules; (2) Joseph Anderson was actually exposed to such condition; and (3) such exposure caused the injuries complained of. In this case, Plaintiffs cannot make that showing. The evidence submitted by Plaintiffs amounts only to speculation and the mere possibility of exposure, which is not sufficient to sustain a motion for summary judgment or carry Plaintiffs' burden at trial.

WHEREFORE, for the reasons set forth above and in Hercules' Memorandum in Support, Hercules requests that the Court grant its Motion for Summary Judgment, dismiss all claims against Hercules, with prejudice, and grant Hercules and further relief the Court deems appropriate.

DATED this 20<sup>th</sup> day of October, 2010.

*/s/ Katherine Venti*

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KATHERINE VENTI

JOHN P. BALL

PARSONS BEHLE & LATIMER

Attorneys for Hercules Incorporated

**CERTIFICATE OF SERVICE**

I hereby certify that on 20<sup>th</sup> day of October, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

/s/ Katherine Venti